

L A W   O F F I C E S  
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June 28, 2004

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., TW-A325  
Washington, DC 20554

**EX PARTE COMMUNICATION**

Re:    Immediate Implementation of Revised Compensation Rate; Request to  
      Update Default Compensation Rate For Dial-Around Calls from  
      Payphones, WC Docket No. 03-225

Dear Ms. Dortch:

The current compensation rate was intended to remain in effect for three years. See *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Third Report and Order and Order on Reconsideration of the Second Report and Order, 14 FCC Rcd 2545, 2554 ¶ 185, 2647-48 ¶ 230 (1999) ("*Third Payphone Order*"). It has now been in effect for over five years. Requests to increase the rate have been pending before the Commission for the last two years. And for that entire two-year period, as the record in this proceeding amply demonstrates, payphone service providers ("PSPs") have been vastly undercompensated. Yet, two interexchange carriers ("IXCs") are now urging the Commission to delay even more the implementation of a revised compensation rate. See Letter to Marlene H. Dortch, Secretary, FCC, from Michael F. Del Casino, Government Affairs Director, AT&T, June 16, 2004; Letter to Marlene H. Dortch, Secretary, FCC, from Carl Wolf Bilek, IDT Corporation, June 19, 2004 ("*IDT Ex Parte*").<sup>1</sup> On behalf of the American

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<sup>1</sup> As of close of business, June 25, 2004, only these two carriers, through their last minute ex partes, had made any record representations on the issue of the effective date. These two carriers have participated in these proceedings from the very first round of comments and did not raise this issue. It is clear that this is a last-minute attempt to derail the dial-around rate increase whose need

Public Communications Council ("APCC"), we urge the Commission to reject these requests.

The Commission should make the new rate take effect immediately. To do otherwise would be patently unfair to PSPs and would unlawfully accelerate the continuing decline in payphone deployment. For the last two years, PSPs have had to endure making their payphones available for dial-around calling at a rate that is only 50% of the cost-justified rate. Even if the Commission releases a decision at the end of this week, and makes the new rate effective immediately, due to the payment delay built into the compensation system PSPs will receive no payments under the new rate until January 1, 2005.<sup>2</sup> To require PSPs to wait even longer would have grave consequences for PSPs and payphone deployment. As the record of this proceeding makes clear, operating at rates far below cost has exacerbated what was already an alarming decline in deployment of payphones. The decline must be stopped or slowed as soon as practicable, or there will be no hope of maintaining a reasonably adequate level of payphone deployment.

Delaying the revised rate's effective date is particularly inappropriate because IXC's have had ample time to prepare, and indeed already have prepared, for the implementation of a new rate. Unlike PSPs, who must wait for the Commission to order a compensation rate increase, IXC's can raise their rates to recover a compensation increase on very short notice. Accordingly, the claim of IDT – one of only two carriers to put a request for delay in writing – that a year's delay is necessary "to permit [prepaid] calling card service providers to

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(Footnote continued)

these carriers could not rebut on the merits. Such chicanery makes a mockery of the Commission's processes, which are designed to air the arguments and allow a full opportunity for developing the record on the merits. On these grounds alone, the Commission should ignore the carriers' pleas.

<sup>2</sup> Under the dial-around compensation payment scheme, dictated by the carriers, there is as much as a six-month delay in payment for dial-around calls. Calls made during the third quarter of 2004 (beginning July 1), for example, take the entire fourth quarter to be processed, and payment is not made until the first day of the following quarter, or January 1, 2005.

make all necessary changes and deplete existing calling card stock” (IDT Ex Parte at 2) rings exceedingly hollow. In fact, IDT’s cards, as advertised in numerous airline magazines, already apply a \$.65 payphone surcharge and explicitly provide that “[r]ates and service charges are subject to change without notice.” See Exhibit 1.

As for AT&T, even old AT&T cards marketed by the U.S. Postal Service provide that “[a] surcharge of *at least 3 minutes (subject to increase)* applies to pay phone calls”. See Exhibit 2 (emphasis added). At this card’s rate of \$.16 per minute, these cards ensure that AT&T can assess a minimum of \$.48 and can increase the surcharge as necessary to recover increased payphone compensation costs. AT&T’s more recently published Postal Service cards provide for an even larger surcharge of “at least 8 minutes,” which translates to a minimum \$.80 surcharge, again “subject to increase” as necessary to recover increased costs. See Exhibit 3.<sup>3</sup>

In short, carriers already apply surcharges in the neighborhood of \$.65 to \$.80 – which must be substantially in excess of the amount reasonably needed to recover current compensation costs of \$.24 – and have reserved the right to increase the surcharge without notice, as necessary to recover increased costs. In light of the various mechanisms by which IXC’s can and do protect themselves, there is no conceivable basis for the Commission to be concerned about IXC’s ability to adjust promptly to an increased compensation rate.

Moreover, there is no reason why the Commission need wait until the first day of a quarter in order to implement a revised compensation rate. The Commission has previously recognized the importance of immediate

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<sup>3</sup> Although there have been no requests for delay other than AT&T’s and IDT’s unsupported letters, we note that other prepaid card providers have also protected themselves. For example, another prepaid card provider, STi, provides for a \$.65 surcharge that is “subject to change without notice.” In addition, STi’s card expires three months after the first use. See Exhibit 4. Another prepaid card provider, Heartland Telecom, Inc., protects itself by avoiding any commitment as to the amount of the payphone surcharge: “Calls from payphones will be assessed *a fee* to cover FCC mandated payments to payphone owners.” See Exhibit 5 (emphasis added).

implementation of a compensation rate when equity so requires, and has waived the 30-day period following Federal Register publication in order to provide immediate relief to PSPs, even though it meant the rate took effect in the middle of a quarter. *Operator Service Access and Payphone Compensation*, CC Dkt. No. 91-35, Second Report and Order, 7 FCC Rcd 3251, 3260 ¶ 54, 3262 ¶ 69 (1992) (ordering compensation to begin to accrue on the first day of the first *month* following Federal Register publication). Even when the Commission has not ordered immediate implementation of a revised payphone compensation rate, the Commission has never deferred the effective date beyond the normal 30 days after Federal Register publication, which, with publication lag time, usually means a delay of at least 45 days before the rate is effective. *See, e.g., Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541, ¶ 365 (1996); *Third Payphone Order* at 2553 ¶ 18, 2647 ¶ 230. Coupled with the delay associated with the dial-around payment process, this means it is at least four-and-a-half months after the Commission votes before there is any cash flow as a result of an increase.<sup>4</sup>

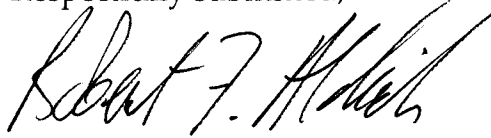
Mid-quarter implementation of a rate change has had no significant impact on the ability of either carriers or PSPs to process compensation payments. Nor should it. The entire processing remains the same, using the same dial-around call tracking system no matter what the rate. All that is required is an arithmetical adjustment to change the multiplier once the rate is known and the carrier has tallied the number of calls.

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<sup>4</sup> Indeed, if the Commission delayed the effective date of the new rate until the fourth quarter of this year (October 1), or the start of the next quarter after the vote, it would be April 1, 2005, before a PSP sees a penny of the rate increase – over nine months from today. As noted above, even if the Commission orders the increase to take effect immediately, it will be January 1, 2005, before any PSP sees a penny of the increase.

Accordingly, the Commission should order that the revised compensation rate is effective the day after Federal Register publication of the order. At most, the effective date should be deferred no longer than the normal 30 days after Federal Register publication.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Aldrich".

Albert H. Kramer  
Robert F. Aldrich

cc: Chris Libertelli  
Matthew Brill  
Daniel Gonzalez  
Jessica Rosenworcel  
Scott Bergmann  
Sharon Diskin  
Joel Marcus  
Jeffrey Carlisle  
Tamara Preiss  
Jon Stover  
Carol Canteen

# **EXHIBIT 1**

GlobalCall

GI  
Glo

# Get a sure thing of your own.

Use the GlobalCall card and call the world.

**Because GlobalCall is a lot more than just talk.**

**It's Savings**

For as little as **10¢ a minute**, you can call 230 countries. For just **5¢ a minute**, you can call anywhere in the continental U.S.

**It's Convenience**

You never have to deal with huge hotel phone bills, foreign operators, or not knowing the language. Just punch in your access number, and you're communicating.

**It's Choices**

Works on any phone, including your cell from the U.S.

**It's Information**

You have access to news, sports, weather, and more - all from your phone!

*No connection fees. No activation charges. No contracts. No switching. No hassles.*

Compare  
and  
**SAVE**

Rate/Minute on Calls  
From the U.S.

Country	IDT GLOBALCALL	AT&T	MCI	SPRINT
U.S. (within)	<b>5 ¢</b>	10 ¢	10 ¢	10 ¢
Australia	<b>10 ¢</b>	40 ¢	20 ¢	46 ¢
Canada	<b>10 ¢</b>	20 ¢	11 ¢	46 ¢
Chile	<b>15 ¢</b>	50 ¢	24 ¢	69 ¢
Brazil - Sao Paulo	<b>15 ¢</b>	50 ¢	36 ¢	92 ¢
Germany	<b>10 ¢</b>	30 ¢	14 ¢	46 ¢
Israel	<b>15 ¢</b>	50 ¢	25 ¢	\$1.15
Mexico City	<b>15 ¢</b>	30 ¢	32 ¢	49 ¢
Netherlands	<b>10 ¢</b>	50 ¢	14 ¢	46 ¢
United Kingdom	<b>10 ¢</b>	20 ¢	14 ¢	46 ¢

Comparison as of 12/15/03. AT&T rates based on 300 AT&T Prepaid Phone Card. MCI rates based on 300 Minutes Pass calling card. Sprint rates based on 250 minute card.

**Call 1-800-893-6160 to activate your card now**

Country	Cust. Service Activation #	In-Country Access#	Country	Cust. Service Activation #	In-Country Access#
Argentina	0800-266-4774	0800-266-4777	Israel	1-800-931-2054	1-800-930-0136
Australia	1800-14-7551	1800-46-6480	Italy	800-78-0181	800-78-0037
Belgium	0800-7-7927	0800-7-2383	Japan	00531-13-0157	00531-13-0455
Canada	1-888-898-6054	1-888-972-1933	Mexico	01-800-888-5382	01-800-888-5555
Colombia	01-800-5180003	01-800-5180002	Netherlands	0800-024-4631	0800-024-4630
Denmark	8088-2903	8088-4624	Spain	900-878-236	900-878-235
Dominican Rep.	1-200-8119	1-200-8117	Sweden	020-79-4697	020-79-1607
France	0800-91-5711	0800-91-8132	Switzerland	0800-83-4915	0800-56-4650
Germany	0800-031-9022	0800-031-9021	UK	0-800-028-5821	0800-279-3325

To use your card from the U.S. dial **1-800-693-3298**  
For access numbers not listed visit our web site at [www.global-call.net](http://www.global-call.net)

When outside the United States: Use the appropriate International Access number and wait for greeting. Enter card number when prompted. For domestic calls and calls to Canada: dial 1 + Area Code + Local Number. For non-U.S. Numbers: dial 011 + Country Code + City Code + Local Number. For additional calls: don't hang up — press [P] key 3 times and wait for prompt.

There is a \$1.99 monthly service charge. 65¢ pay phone surcharge applies. Rates and service charges are subject to change without notice. Credit card or certified check required for activation. GlobalCall® and IDT® are registered trademarks of IDT Corporation.

**For Instant Activation  
24 hours a day, call**

**1-800-893-6160**

Visit our web site at [www.global-call.net](http://www.global-call.net)



Purchase of \$50 card required. 5¢ domestic rate plan applies for new sign-ups only. There is a \$1.99 monthly service charge. 65¢ pay phone surcharge applies. Rates and service charges are subject to change without notice. Credit card or certified check required for activation. GlobalCall is a registered service mark, and IDT is a trademark of IDT Corporation. IDT (NYSE: IDT, IDT.C) is a global leader in discount telecommunications. ©2004 IDT Corporation. All rights reserved.

When you call,  
have a winning hand.



5¢ a minute



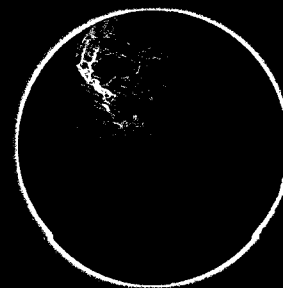
It's no trick! Just tear out this card  
and call anywhere in the U.S. for just  
**5¢** a minute. Get great international  
rates, too! (See reverse side)

For Instant Activation  
24 hours a day

**1-800-893-6160**

Tear out and take with you

**GlobalCall®**  
PREPAID CALLING CARD



Instant Activation. Call Today!



## **EXHIBIT 2**



**\$8**

**50 MINUTES\***

# FIRST CLASS PHONECARD®



- Flat rates per minute\*
- No hidden surcharges
- Minutes do not expire
- Rechargeable

**CARD MUST BE ACTIVATED AT TIME OF SALE**

\*A surcharge of at least 3 minutes (subject to increase) applies to pay phone calls. Minutes based on U.S. domestic calling. International flat rates are higher than U.S. domestic flat rates, differ according to destination called and are subject to change. See reverse for complete terms and conditions.





By using this **FIRSTCLASS PHONECARD®**, you consent to the Terms and Conditions below and to the applicable provisions of the AT&T Consumer Services Agreement, including AT&T Service Guides for PrePaid cards, which you may obtain at [www.att.com/serviceguide/home](http://www.att.com/serviceguide/home) or by calling Customer Service at 1 800 208-0267:

1. This **FIRSTCLASS PHONECARD® (Card)** can be used to place the following types of calls: In-state and state-to-state consumer calls where AT&T is authorized to carry such calls; outbound international calls from the U.S. to over 200 locations around the world; and inbound international calls to the U.S. and from country to country outside the U.S. from select countries with the use of the **AT&T Direct® Service**. **Call Customer Service for complete rates, available countries and access codes before you leave the U.S.** Cards cannot be used to place 500, 700, 800, 888, 877, 866, 855, 900 or 976 number service calls; or to place certain operator-assisted calls such as third-party-billed and collect calls. Directory Assistance rates are higher to 555 numbers than other domestic calls.
2. Safeguard your Card and PIN Code; you are responsible for any loss, theft or unauthorized use.
3. AT&T and the United States Postal Service make no warranty, express or implied, regarding the condition(s) or fitness of the services offered for any particular use or purpose. As permitted by law, the liability of AT&T and the United States Postal Service shall be limited to direct damages for any personal or property injury, and for all other claims to an amount equal to the charge for the affected service(s). **IN NO EVENT WILL AT&T, THE UNITED STATES POSTAL SERVICE, THEIR EMPLOYEES, AGENTS OR ANY COOPERATING SERVICE PROVIDER(S) BE LIABLE FOR ANY PUNITIVE, SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES.**

4. You and AT&T agree that the exclusive remedy for all disputes arising out of purchase or use of this **FIRSTCLASS PHONECARD**, except for matters you take to small claims court, is arbitration by an independent arbitrator pursuant to the terms of the AT&T Consumer Services Agreement referenced above. **YOUR DISPUTE WILL NOT BE HEARD BY A JURY OR IN COURT AND MAY NOT BE MADE PART OF A CLASS ACTION.**
5. If AT&T reasonably suspects fraudulent use of this Card, it may be suspended or terminated without notice. Card is not returnable or exchangeable unless defective and does not expire. Call times are billed in one-minute increments. Partial minutes used are billed as whole minutes.
6. If your Card is recharged, recharge minutes may have different rates, surcharges and terms and conditions that may change from time to time without notice and are available by calling Customer Service. Maximum equivalent of 900 U.S. minutes or \$225 U.S. can reside on a Card at any given time. Recharge minutes are not refundable.
7. **A surcharge of at least 3 minutes (subject to increase) applies to pay phone calls.** International flat rates are higher than U.S. domestic flat rates, differ according to destination called and are subject to change without notice. Rates may be higher for calls made to international mobile phones. Call Customer Service for exact rates and surcharge information.
8. Direct any complaints not resolved to your satisfaction to appropriate regulatory agency in the state where Card was purchased.
9. Service provided by AT&T or by AT&T Alascom in AK.

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©2000 U.S. Postal Service  
Item # 99860001 AIC 099

**DO NOT purchase if PIN Code is exposed. PIN Code is located between the arrows on the Card back.**  
↓ Fold and detach Card here. ↓



**FIRSTCLASS  
PHONECARD.**

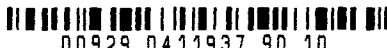


1. Dial **1 888 508-5578**
2. Press 1 for English or select a language.
3. Scratch off and enter your PIN Code.

**To purchase additional minutes - Press 3.**

\*A surcharge of at least 3 minutes (subject to increase) applies to pay phone calls. Rate is \$0.16/domestic minute. International flat rates are higher than U.S. domestic flat rates, differ according to destination called and are subject to change without notice. Call times are billed in one-minute increments. Partial minutes used are billed as whole minutes. Recharge minutes added to your Card may have different rates, surcharges and terms and conditions which are available by calling Customer Service. Card is not returnable or exchangeable unless defective and does not expire. 00929 For Customer Service, call 1 800 208-0267.

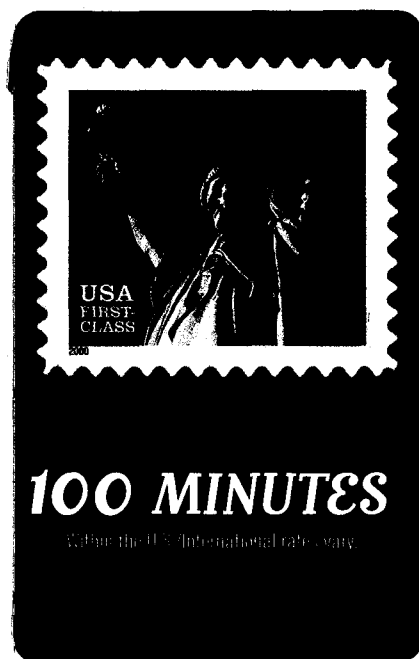
Services provided by  
AT&T or AT&T  
Alascom in AK.



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Service. U.S. Patent  
No. 4,706,275

**340009290411937**

## **EXHIBIT 3**





FIRST CLASS  
PHONECARD



1. Dial **1 888 508-5578**

2. Press 1 for English or select a language.

3. Scratch off and enter your PIN Code.

To purchase additional minutes - Press 3.

**\*Calls within the U.S. have a rate of \$0.10 per minute. A surcharge of at least 8 minutes (subject to increase) applies to pay phone calls. International flat rates are higher than U.S. domestic flat rates, differ according to destination called and are subject to change without notice. Rates may be higher for calls made to or from mobile phones. Call times are billed in one-minute increments; partial minutes used are charged as full minutes. Recharge minutes added to your Card may have different rates, surcharges and terms and conditions which are available by calling Customer Service. Card is not returnable or exchangeable unless defective and does not expire. 00567**

For Customer Service, call 1 800 208-0267.

Service provided  
by AT&T, by  
AT&T Alascom  
in AK



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Postal Service.  
U.S. Patent No.  
4,706,275

340009670005552

## **EXHIBIT 4**



PREPAID

\$5

# STi CARD

**LOWEST**  
INTERNATIONAL RATES

USA  
4.9¢  
PER MINUTE

**No Connection Fee**

BELGIUM	0800-11-979
DOMINICAN REP.	1-200-8089
FRANCE	0800-91-43-44
GERMANY	0800-1802-160
HONG KONG	800-96-7098
IRELAND	1800-62-0303

ITALY	80-0783-901
JAPAN	0053-11-30-592
NEW ZEALAND	0800-112-508
NORWAY	800-112-88
SWITZERLAND	0800-564-110
U.K.	0800-528-7576



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EXPIRES 3 MONTHS AFTER FIRST USE  
© PATENT PENDING

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**WWW.STIPHONECARD.COM**

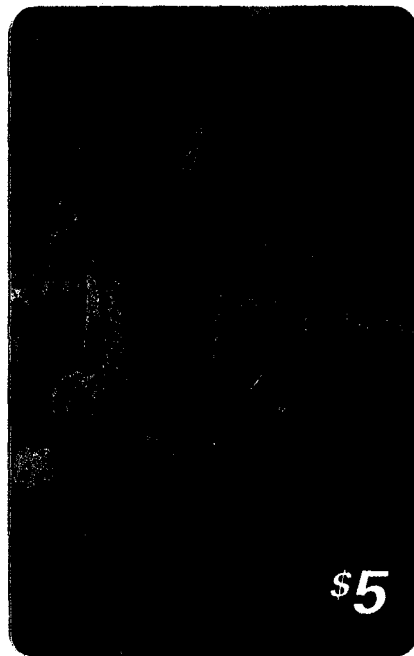




Buy Phonecards Online at:  
[www.stiphonecard.com](http://www.stiphonecard.com)

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INTERNATIONAL ACCESS**

## **EXHIBIT 5**



Dial: 1-888-629-1234

Marque: 1-877-312-3456

When prompted, enter your PIN  
number / Cuando Se Le Indique,  
Marque Los Numeros



Enter Area code+Telephone

Number for Domestic, Canada  
and Caribbean calls, or enter  
011+Country Code+City

Code+Telephone Number for  
International Calls. / Marque el

Clave del Area+Numero Telefónico o  
Marque 011+Clave del país+Clave de  
la Ciudad el Numero Telefónico.

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## Rechargeable



For Customer Service & recharges call

**1-800-598-5465**

Not responsible for lost or stolen cards. Number  
of minutes based on calls made within the United  
States. International calls and calls to Int'l cell  
phones are charged at a higher rate. Card expires  
six months from first use or recharge. Per call,  
service fees and maintenance charges may  
apply. Calls from payphones will be assessed a  
fee to cover FCC mandated payments to  
payphone owners. Network services by ILL.

**125002027-00000475**

*I am the good shepherd; I know My sheep  
and My sheep know Me. John 10:14*